IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO. 443 OF 2006
WITH
CRIMINAL APPLICATION NO. 239 OF 2006.

M/s Mangaldas Raghavji & Co. & ors.... Applicants.

V/s.

Mrs. Vaishali Rasal & ors. ... Respondents.

Shri C.K. Tripathi for the applicants.

Shri Vivek Sharma with Ms. C.Bocarro for respondent No.1.

Shri Y.M. Nakhwa, APP for the State.

CORAM: S.C.DHARMADHIKARI, J.

DATED: 21.12.2006.

P.C.:

. The proceedings before the Courts below are under the Negotiable Instruments Act. The deposit in Court is towards compensation amount and penalty. The same is for Rs. 40 lakhs. The Applicants-original accused Nos. 1 and 2 have no objection in the original complainant withdrawing Rs.40 lakhs.

2. On the last occasion, this matter was placed before me and parties were interested in an overall settlement. There are 2 flats which are in possession of the original complainant, one is smaller admeasuring 400 sq.ft and the other is

larger admeasuring 800 sq.ft. The amount has now been crystalised at Rs. 70 lakhs, out of which Rs. 40 lakhs are already deposited in the Courts below. The accused applied for time to pay balance amount of Rs.30 lakhs. The original complainant agreed to hand over the flats to the original accused Nos. 1 and 2 upon payment of this amount. Today, the matter was placed before me because the parties could not agree with regard to time limit for payment of balance amount of Rs. 30 lakhs. After arguing the matter for some time, Shri Tripathi and Shri Sharma left the matter to the Court.

3. It is accordingly directed that the original accused Nos.1 and 2-applicants shall be entitled to release of their flats upon payment of Rs. 30 lakhs.

4. At the request of Shri Tripathi and to enable the accused to pay the said amount, smaller flat admeasuring 400 sq.ft. which is in possession of the original complainant would stand released and possession of the same to be handed over to the applicants-accused Nos. 1 and 2 on or before 31st December 2006.

5. Upon possession of the flat being handed

over, it would be open for the applicants to deal with the same as permissible in law.

6. Applicants to pay balance sum of Rs. 30 lakhs on or before 31st July 2007.

7. Upon this payment being made, the larger flat admeasuring 800 sq.ft would also stand released and the same would be handed over to the accused by the original complainant.

8. This puts an end to all the disputes and amounts as stated above to be accepted in full and final settlement of all claims.

9. Upon payment of Rs. 30 lakhs and original complainant releasing larger flat admeasuring 800 sq.ft as well, pending suit being Civil Suit No. 571/1999 to stand dismissed as withdrawn. Needless to state that in default, the original complainant would be entitled to take steps as permissible in law, including seeking possession of the smaller flat which is parted with or consideration pertaining thereto.

10. This order is passed in the presence of the parties and with their consent.

11. In the light of the above terms, the orders under challenge are set aside. Revision application is allowed in the above terms.

12. In the light of the above order, Civil Application No. 239/2006 does not survive.

(S.C.DHARMADHIKARI, J.)